

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14281, of Gee How Oak Tin Association, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 7106.11 to change a nonconforming use of retail food products sales, first floor to pharmaceutical and apothecary sales and services and retail food products sale, first floor, in an HR/SP-2 District at premises 815 - 6th Street, N.W., (Square 485, Lot 13).

HEARING DATES: April 24 and May 1, 1985
DECISION DATE: May 1, 1985 (Bench Decision)

FINDINGS OF FACT:

1. The application was originally scheduled for the public hearing of April 24, 1985. All applications on the afternoon agenda of that date were continued by the Board to a special public hearing date of May 1, 1985. Electrical services to be rendered that date in the District Building precluded the hearing of the applications.

2. The subject site is located on the east side of 6th Street between H and I Streets, N.W., and is known as premises 815 6th Street, N.W. The site is located in an HR/SP-2 District.

3. The site is rectangular in shape and flat. It has a width of 20.12 feet and depth of 85.87 feet. A fifteen foot wide public alley is located at the rear of the site.

4. The site is improved with a three story brick building. The upper two floors are occupied by a Chinese social association. The first floor, now vacant, has a Certificate of Occupancy No. A18482, dated December 5, 1952, for the use of the first floor as retail food products sales. There is a separate street entrance to the stories above the retail store.

5. The applicant's lessee, the operator of the first floor business, is a licensed pharmacist. The lessee proposes to change the nonconforming use of retail food products sales to pharmaceutical and apothecary sales and services and retail food products sales.

6. Paragraph 7106.11 provides that a nonconforming use may be changed to a use which is permitted as a matter-of-right

in the most restrictive district in which the existing nonconforming use is permitted as a matter-of-right, provided that:

- A. The proposed use will not adversely affect the present character or future development of the surrounding area in accordance with the Zoning Regulations. The surrounding area encompasses the existing uses and structures within at least 300 feet in all directions from the nonconforming use.
- B. The proposed use will not create any deleterious external effects, including but not limited to noise, traffic, parking and loading considerations, illumination, vibration, odor, and design and siting effects.
- C. In Residential Districts, the proposed use shall be either a dwelling, flat, apartment house or a neighborhood facility.
- D. The Board may require the provision of or direct changes, modifications, or amendments to any design, plan, screening, landscaping, type of lighting, nature of any sign, pedestrian or vehicular access, parking and loading, hours of operation, or any other restriction or safeguard it may deem necessary to protect the value, utilization, or enjoyment of property in the neighborhood.

7. The existing use and the proposed use are first permitted as a matter-of-right in a C-1 District.

8. To the immediate south of the site is a parking lot followed by rowhouses basically residential in use. To the north of the site are also row houses basically residential in use, some of which have retail uses on the first floor. Directly across 6th Street from the site is the Wah Luck high rise apartment house, a residence for senior citizens.

9. The proposed use will be operated by the lessee alone. As the business increases, the lessee proposes to hire additional employees on a part-time basis. These employees will be neighborhood residents.

10. The hours of operation will be from 9:30 A.M. to 6:30 P.M., Monday through Friday, and from 9:00 A.M. to 12:00 A.M. on Saturday. The store will be closed on Sunday subject to the emergency need for the pharmacy department.

11. Deliveries will be made from the public alley to the rear of the site.

12. A trash receptacle will be located at the front of the premises but on the site. The area will be policed daily. A private contractor will haul the trash away.

13. The lessee anticipates from twenty to thirty customers daily. The customers will be from the neighborhood and will basically walk to the premises.

14. There will be no chairs or tables provided inside the establishment. All products sold will be carried out by the purchasers. Other than a coffee urn, there will be no equipment to serve hot food. All food products for sale will be prepackaged.

15. Petitions in support of the application were submitted to the record. The preamble to the petition, written in Chinese and English, stated that:

Situated across the street are many elderly's residences and many young families live around the immediate vicinity. Two family practitioners and a dentist are also in the area but there are no pharmacy within reasonable walking distance. Often debilitated patients after visiting their doctors must travel some distance for their prescriptions, a severe handicap especially in inclement weather. Given the sizable Chinese and Oriental populace, many not conversant in English, the inconvenience and incommunicado often result in delay of patient's recovery, compliance even complications.

Pete Wansun Chan, a registered pharmacist, currently employed with the VAMC in D.C., would like to meet this missing health delivery system need. He is bilingual in Chinese and English. We, the petitioners welcome him to the neighborhood. Due to the lengthy, time consuming, process of the zoning adjustment, we would like to ask the Board of Zoning Adjustment for an expedite decision on his pending petition. Time is an essence in securing this much needed neighborhood facility. Any delay may jeopardize and/or compound his effort for this as a community service.

16. Even though not required to be so, the proposed use is a neighborhood facility providing personal services for the day-to-day needs of a small tributary area.

17. Advisory Neighborhood Commission 2C filed no recommendation on the application.

18. There was no opposition to the application at the public hearing or of record.


CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a special exception, the granting of which requires a showing through substantial evidence that the applicant has complied with the requirements of Paragraph 7106.11 and that the relief requested under Sub-section 8207.2 can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property. The Board concludes that the applicant has met the burden of proof. The proposed use is designed to provide convenient retail service for the day-to-day needs of a small tributary area, with a minimum impact upon surrounding residential development. The proposed use is permitted as a matter-of-right in the most restrictive district in which the previous use is permitted as a matter-of-right. The Board concludes that the proposed use constitutes a neighborhood facility which will not adversely affect the present character or future development of the area. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 4-0 (Maybelle T. Bennett, Charles R. Norris, William F. McIntosh and Carrie L. Thornhill to grant; Douglas J. Patton not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER:

20 MAY 1985

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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